IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 10912 of 2005

Between:

M/s. Vijaya Suppliers, Koduru, Cuddapah District, rep. by its Proprietor Mr. M. Nageswaraiah, S/o. Eswaraiah,

..... PETITIONER

AND

1 The Additional Commissioner of Commercial Taxes (legal), O/o. the Commissioner of Commercial Taxes,
Excise & Commercial Taxes Bldgs, M.G.Road, Nampally, Hyderabad.
2 The Dy. Commissioner of Commercial Taxes, Chittoor Division, Chittoor, Chittoor District.
3 The Commercial Tax Officer, Rajampet, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction particularly in the nature of Writ of mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref. No. LV (3)/231/2004 dt.13.04.2004 dismissing the stay petition filed by the petitioner firm for assessment year 2001-2002 as illegal arbitrary, improper, unjust and without application of mind as it amounts to collection of tax more than 12% and that too from two dealers in view of the revisions/proceedings issued by the revisional assessing authorities on the manufacturers levying tax on the alleged rental values @ 12% in terms of Entry-21 of the 6th schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court, at the admission stage, made the following:

ORDER: (Per Sri GR, J)

This writ petition is directed against the proceedings of the first respondent dated 13-04-2005 declining to grant stay of collection of the disputed amount of tax pending appeal before the Sales Tax Appellate Tribunal in respect of the assessment year 2001-02.

Heard the learned counsel for the petitioner and the learned Government Pleader for Commercial Tax appearing for the respondents.

The writ petition is disposed of granting stay of collection of the amount of disputed tax pending consideration of the appeal pending before the Sales Tax Appellate Tribunal on condition that the petitioner deposits half the disputed amount of tax to the third respondent within four weeks from today. The liability to pay the balance shall depend on the out come of the appeal. No costs.

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(GODA RAGHURAM, J)

_____ (Dr.G.YETHIRAJULU, J)

03.05.2005

DR/SKM

To

1 The Additional Commissioner of Commercial Taxes (legal), O/o. the Commissioner of Commercial Taxes, Excise & Commercial Taxes Bldgs, M.G.Road, Nampally, Hyderabad.
2 The Deputy Commissioner of Commercial Taxes, Chittoor Division, Chittoor, Chittoor District.
3 The Commercial Tax Officer, Rajampet, Chittoor District.

4 The Sales Tax Appellate Tribunal, Hyderabad.

5. 2 CCs to G.P. for Commercial Tax, High Court Buildings, Hyderabad (OUT)

6. 2 C.D. copies.